
SENATE BILL 5303

State of Washington

54th Legislature

1995 Regular Session

By Senators Heavey, Quigley, Winsley, Deccio, Hochstatter and Oke

Read first time 01/18/95. Referred to Committee on Government Operations.

1 AN ACT Relating to official travel by public officers and
2 employees; amending RCW 42.52.010, 42.23.070, and 42.23.050; adding new
3 sections to chapter 42.52 RCW; creating a new section; and prescribing
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that the practice of
7 some public officers and employees of using first class airplane
8 accommodations or residing in luxury hotel facilities if traveling on
9 public business is a wasteful use of public resources, or, if provided
10 by private parties who have some interest in the official work of the
11 officer or employee, is an improper gift. The legislature also finds
12 that residual benefits provided by common carriers to travelers should
13 properly accrue to the public employer and not the employee if the
14 public has paid for the travel.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.52 RCW
16 to read as follows:

17 Any state or local government officer, whether elected or
18 appointed, and any state or local government employee who is required

1 to travel in the discharge of the duties of his or her position or
2 employment at public expense shall minimize travel expenses as follows:
3 (1) If travel by commercial air carrier is required, it must be at the
4 least-expensive fare available at the time; and (2) if overnight
5 accommodation is required, it may not be in luxury or deluxe grade
6 facilities if standard grade facilities are available in the same
7 location.

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 42.52 RCW
9 to read as follows:

10 Any residual benefits provided by any common carrier, including
11 benefits such as frequent flyer mileage credits, which accrue as a
12 result of travel required in the discharge of the official duties of
13 any state or local government officer or employee, shall accrue to the
14 benefit of the government employer and not to the benefit of the
15 individual officer or employee if the cost of such travel is at public
16 expense. State and local government entities shall establish the
17 necessary travel procedures and accounts to assure compliance with this
18 section.

19 **Sec. 4.** RCW 42.52.010 and 1994 c 154 s 101 are each amended to
20 read as follows:

21 Unless the context clearly requires otherwise, the definitions in
22 this section apply throughout this chapter.

23 (1) "Agency" means any state board, commission, bureau, committee,
24 department, institution, division, or tribunal in the legislative,
25 executive, or judicial branch of state government. "Agency" includes
26 all elective offices, the state legislature, those institutions of
27 higher education created and supported by the state government, and
28 those courts that are parts of state government.

29 (2) "Head of agency" means the chief executive officer of an
30 agency. In the case of an agency headed by a commission, board,
31 committee, or other body consisting of more than one natural person,
32 agency head means the person or board authorized to appoint agency
33 employees and regulate their conduct.

34 (3) "Assist" means to act, or offer or agree to act, in such a way
35 as to help, aid, advise, furnish information to, or otherwise provide
36 assistance to another person, believing that the action is of help,

1 aid, advice, or assistance to the person and with intent so to assist
2 such person.

3 (4) "Beneficial interest" has the meaning ascribed to it under the
4 Washington case law. However, an ownership interest in a mutual fund
5 or similar investment pooling fund in which the owner has no management
6 powers does not constitute a beneficial interest in the entities in
7 which the fund or pool invests.

8 (5) "Compensation" means anything of economic value, however
9 designated, that is paid, loaned, granted, or transferred, or to be
10 paid, loaned, granted, or transferred for, or in consideration of,
11 personal services to any person.

12 (6) "Confidential information" means (a) specific information,
13 rather than generalized knowledge, that is not available to the general
14 public on request or (b) information made confidential by law.

15 (7) "Ethics boards" means the commission on judicial conduct, the
16 legislative ethics board, and the executive ethics board.

17 (8) "Family" has the same meaning as "immediate family" in RCW
18 42.17.020.

19 (9) "Gift" means anything of economic value for which no
20 consideration is given. "Gift" does not include:

21 (a) Items from family members or friends where it is clear beyond
22 a reasonable doubt that the gift was not made as part of any design to
23 gain or maintain influence in the agency of which the recipient is an
24 officer or employee;

25 (b) Items related to the outside business of the recipient that are
26 customary and not related to the recipient's performance of official
27 duties;

28 (c) Items exchanged among officials and employees or a social event
29 hosted or sponsored by a state officer or state employee for coworkers;

30 (d) Payments by a governmental or nongovernmental entity of
31 reasonable expenses incurred in connection with a speech, presentation,
32 appearance, or trade mission made in an official capacity. As used in
33 this subsection, "reasonable expenses" are limited to travel, lodging,
34 and subsistence expenses incurred the day before through the day after
35 the event but do not include first class air travel or deluxe or luxury
36 lodging if standard lodging is available at the same location;

37 (e) Items a state officer or state employee is authorized by law to
38 accept;

1 (f) Payment of enrollment and course fees and reasonable travel
2 expenses attributable to attending seminars and educational programs
3 sponsored by a bona fide nonprofit professional, educational, or trade
4 association, or charitable institution. As used in this subsection,
5 "reasonable expenses" are limited to travel, lodging, and subsistence
6 expenses incurred the day before through the day after the event but do
7 not include first class air travel or deluxe or luxury lodging if
8 standard lodging is available at the same location;

9 (g) Items returned by the recipient to the donor within thirty days
10 of receipt or donated to a charitable organization within thirty days
11 of receipt;

12 (h) Campaign contributions reported under chapter 42.17 RCW; and

13 (i) Discounts available to an individual as a member of an employee
14 group, occupation, or similar broad-based group.

15 (10) "Honorarium" means money or thing of value offered to a state
16 officer or state employee for a speech, appearance, article, or similar
17 item or activity in connection with the state officer's or state
18 employee's official role.

19 (11) "Participate" means to participate in state action or a
20 proceeding personally and substantially as a state officer or state
21 employee, through approval, disapproval, decision, recommendation, the
22 rendering of advice, investigation, or otherwise but does not include
23 preparation, consideration, or enactment of legislation or the
24 performance of legislative duties.

25 (12) "Person" means any individual, partnership, association,
26 corporation, firm, institution, or other entity, whether or not
27 operated for profit.

28 (13) "Regulatory agency" means any state board, commission,
29 department, or officer, except those in the legislative or judicial
30 branches, authorized by law to conduct adjudicative proceedings, issue
31 permits or licenses, or to control or affect interests of identified
32 persons.

33 (14) "Responsibility" in connection with a transaction involving
34 the state, means the direct administrative or operating authority,
35 whether intermediate or final, and either exercisable alone or through
36 subordinates, effectively to approve, disapprove, or otherwise direct
37 state action in respect of such transaction.

38 (15) "State action" means any action on the part of an agency,
39 including, but not limited to:

- 1 (a) A decision, determination, finding, ruling, or order; and
2 (b) A grant, payment, award, license, contract, transaction,
3 sanction, or approval, or the denial thereof, or failure to act with
4 respect to a decision, determination, finding, ruling, or order.

5 (16) "State officer" means every person holding a position of
6 public trust in or under an executive, legislative, or judicial office
7 of the state. "State officer" includes judges of the superior court,
8 judges of the court of appeals, justices of the supreme court, members
9 of the legislature together with the secretary of the senate and the
10 chief clerk of the house of representatives, holders of elective
11 offices in the executive branch of state government, chief executive
12 officers of state agencies, members of boards, commissions, or
13 committees with authority over one or more state agencies or
14 institutions, and employees of the state who are engaged in
15 supervisory, policy-making, or policy-enforcing work. For the purposes
16 of this chapter, "state officer" also includes any person exercising or
17 undertaking to exercise the powers or functions of a state officer.

18 (17) "State employee" means an individual who is employed by an
19 agency in any branch of state government. For purposes of this
20 chapter, employees of the superior courts are not state officers or
21 state employees.

22 (18) "Thing of economic value," in addition to its ordinary
23 meaning, includes:

24 (a) A loan, property interest, interest in a contract or other
25 chose in action, and employment or another arrangement involving a
26 right to compensation;

27 (b) An option, irrespective of the conditions to the exercise of
28 the option; and

29 (c) A promise or undertaking for the present or future delivery or
30 procurement.

31 (19)(a) "Transaction involving the state" means a proceeding,
32 application, submission, request for a ruling or other determination,
33 contract, claim, case, or other similar matter that the state officer,
34 state employee, or former state officer or state employee in question
35 believes, or has reason to believe:

36 (i) Is, or will be, the subject of state action; or

37 (ii) Is one to which the state is or will be a party; or

38 (iii) Is one in which the state has a direct and substantial
39 proprietary interest.

1 (b) "Transaction involving the state" does not include the
2 following: Preparation, consideration, or enactment of legislation,
3 including appropriation of moneys in a budget, or the performance of
4 legislative duties by an officer or employee; or a claim, case,
5 lawsuit, or similar matter if the officer or employee did not
6 participate in the underlying transaction involving the state that is
7 the basis for the claim, case, or lawsuit.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 42.52 RCW
9 to read as follows:

10 A violation of section 2 or 3 of this act constitutes a violation
11 of this chapter.

12 **Sec. 6.** RCW 42.23.070 and 1994 c 154 s 121 are each amended to
13 read as follows:

14 (1) No municipal officer may use his or her position to secure
15 special privileges or exemptions for himself, herself, or others.

16 (2) No municipal officer may, directly or indirectly, give or
17 receive or agree to receive any compensation, gift, reward, or gratuity
18 from a source except the employing municipality, for a matter connected
19 with or related to the officer's services as such an officer unless
20 otherwise provided for by law. Gifts prohibited by this subsection
21 include first class air accommodations and luxury or deluxe lodgings if
22 standard lodgings are available at the same location provided in
23 conjunction with any official travel for trade missions, inspections,
24 seminars, educational programs, meetings, or conferences.

25 (3) No municipal officer may accept employment or engage in
26 business or professional activity that the officer might reasonably
27 expect would require or induce him or her by reason of his or her
28 official position to disclose confidential information acquired by
29 reason of his or her official position.

30 (4) No municipal officer may disclose confidential information
31 gained by reason of the officer's position, nor may the officer
32 otherwise use such information for his or her personal gain or benefit.

33 **Sec. 7.** RCW 42.23.050 and 1961 c 268 s 6 are each amended to read
34 as follows:

35 Any contract made in violation of the provisions of this ((act))
36 chapter shall be void and the performance thereof, in full or in part,

1 by a contracting party shall not be the basis of any claim against the
2 municipality. Any officer violating the provisions of this ((act))
3 chapter shall be liable to the municipality of which he is an officer
4 for a penalty in the amount of three hundred dollars, in addition to
5 such other civil or criminal liability or penalty as may otherwise be
6 imposed upon him by law.

7 In addition to all other penalties, civil or criminal, the
8 violation by any officer of the provisions of this ((act)) chapter or
9 of sections 2 or 3 of this act shall work a forfeiture of his office.

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